

PATENT**REMARKS****Introduction:**

Claims 1-13 and 15-40 are pending in the present application.

In the above amendments, claims 1, 3, 10 have been amended and claim 14 has been canceled without prejudice.

An IDS was filed on 7/13/01. Applicant respectfully requests that the Examiner indicate in the next Office communication that the IDS has been considered and return a copy of the initialed /dated PTO 1449 form.

In the Office Action mailed 3/28/2005, the Examiner rejected claims 1-2 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 12 of US Patent No. 6,335,922, rejected claims 1-5 and 9-12 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of US Patent No. 6,335,922 in view of US Patent No. 6,078,577 to Bishop, Jr. et al. ("Bishop"), and rejected claims 1-2, 9, and 14 under 35 U.S.C. §102(e) as being anticipated by Bishop.

In addition, claims 15-40 were allowed and claims 3-8 and 10-13 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and overcome the double patenting rejection. The indication of allowable subject matter is gratefully acknowledged.

Double Patenting Rejection:

In the Office Action, the Examiner rejected claims 1-2 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 12 of US Patent No. 6,335,922 and rejected claims 1-5 and 9-12 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of US Patent No. 6,335,922 in view of US Patent No. 6,078,577 to Bishop.

In response, please find enclosed a terminal disclaimer in compliance with 37 CFR 1.321(c) which overcomes the double patenting rejection over the commonly owned patent, US Patent No. 6,335,922.

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PATENT**Claim Rejections – 35 USC 102:**

In the Office Action, the Examiner rejected claims 1-2, 9, and 14 under 35 U.S.C. §102(e) as being anticipated by Bishop. The rejections are traversed for the following reasons with the exception of claim 14 which has now been canceled.

With reference to independent claim 1, Bishop does not teach nor suggest, within the claimed context of a “**forward link**,” the claimed features of “determining a **forward link capacity** available for each of said at least one cell” and “assigning an assigned transmission rate to each of said at least one scheduled user for data transmission on the **forward link**” as claimed (emphasis added).

In contrast, Bishop teaches a communication system in which before a subscriber unit sends data packets through system 10, the subscriber unit makes a request for use of the resource (i.e., channel), indicating the number of data packets to be sent. The system controller, in turn, schedules how and when the data packets will be sent and returns a message to the requesting subscriber unit that identifies how and when the data packets will be sent (e.g. which time slots to use), see col. 4, lines 21-29 of Bishop. In other words, Bishop is concerned with allocating resources in the **reverse link** which is a data transmission path from the subscriber unit 30 to the satellite 20, as shown in Fig. 1 of Bishop. Therefore, Bishop does not teach nor suggest, within the claimed context of a “**forward link**,” the claimed features of “determining a **forward link capacity** available for each of said at least one cell” and “assigning an assigned transmission rate to each of said at least one scheduled user for data transmission on the **forward link**” as claimed (emphasis added).

Allowable Subject Matter:

In the Office Action, claims 15-40 were allowed and claims 3-8 and 10-13 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and overcome the double patenting rejection. The indication of allowable subject matter is gratefully acknowledged.

Claims 3 and 10 have each been rewritten into independent form and therefore, are allowable along with their respective dependent claims.

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PATENT**REQUEST FOR ALLOWANCE**

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

Dated: June 27, 2005

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